**LAWRENCE ANG BOON KONG**

**v.**

**THE LAW SOCIETY OF SINGAPORE**

HIGH COURT, SINGAPORE
TS SINNATHURAY J
[ORIGINATING SUMMONS NO. 1136 OF 1989]
28 DECEMBER 1990

***LEGAL PROFESSION:*** *Complaint against advocate and solicitor - Professional capacity as Deputy Public Prosecutor - Jurisdiction - Right of audience - Whether falls within certain provisions of statute - Jurisdiction of Council of Law Society - Legal Profession Act [Sing], ss. 28(2), 82(1), 85.*

The allegation of complaint by D, an advocate and solicitor, against A, the applicant, relates to his A's conduct in his professional capacity as Deputy Public Prosecutor (DPP) in that he had used certain words which is alleged to be unwarranted, baseless and dishonourable. Based on a report of the inquiry committee (IC) the Law Society Council (LSC), under s. 85(1) the Legal Profession Act (the Act), ordered A to pay a penalty of $1,000. A seeks to set aside of this order on the basis that:

(a) the Law Society of Singapore (the respondent) and the IC had wrongly assumed jurisdiction over him and

(b) even if they had jurisdiction, the findings of the IC & LSC are perverse - Counsel for the respondent did not propose to address the Court on the second point.

Counsel for the respondent also stated that the LSC did not in its affidavit state grounds for assuming jurisdiction over A and merely accepted the findings of the IC.

**Held:**

**[1]** (a) It is clear beyond doubt that there is no evidence whatsoever to support the findings of the IC;

(b) there was nothing unwarranted, baseless or dishonourable as complained of by D;

(c) it is regretful that this matter had to go so far as to reach this Court for that decision to be made.

**[2]** (a) In theory, the LSC could assume jurisdiction in relation to proceedings under Pt VII of the Act in respect of an advocate and solicitor who was not in possession of a practising certificate;

(b) however, having regard to s. 28(2), the declaratory provision in the Act, A specifically has a right of audience in the Courts and when he is acting in his capacity as Deputy Public Prosecutor cannot come within s. 82(1) of the Act in respect of his conduct in his professional capacity;

(c) the complaint by D, which relates to A's conduct in his professional capacity as DPP, cannot come within the jurisdiction of the Law Society or of the IC or the LSC;

(d) therefore IC and LSC had wrongly assumed jurisdiction.

*[Respondent's order set aside; respondent's to pay costs.]*

**Legislation referred to:**
Legal Profession Act [Sing], ss. 28(2), 82(1), 85(1), 92(3)

*For the applicant - Tan Boon Teik, the Attorney-General (Yang Ing Loong with him)*
*For the respondent - Karthigesu*

**JUDGMENT**

**TS Sinnathuray J:**

At the conclusion of the hearing, I delivered the following oral judgment.

As Mr. Karthigesu who appears for the Law Society has rightly said, it is clear after all arguments have been heard that the issue before me this morning is easily resolved. This is an application by Mr. Lawrence Ang as the applicant for an order that the order made by the Council of Law Society directing the applicant to pay a penalty of $1,000 under s. 85(1) of the Legal Profession Act following its determination of a report of the inquiry committee constituted to inquire into a complaint made by Mr. Dube, an advocate and solicitor, be set aside and that the costs of this application be provided for.

In support of that application Mr. Lawrence Ang has filed a lengthy affidavit supported by a number of exhibits. In para. 26 of that affidavit he asked that the penalty of $1,000 which had been imposed upon him be declared to be clearly wrong in law, that the respondent and the inquiry committee had wrongly assumed jurisdiction over him. And secondly, even if they had jurisdiction, the findings of the inquiry committee, and confirmed by the Council, are perverse.

Taking the second point first, Mr. Karthigesu for the Law Society has said from the very beginning this morning that he did not propose to address me on the second point. By that concession made by him, it is clear that he cannot support the findings of the inquiry committee and the confirmation of those findings by the Council. Here I must say that the learned Chief Justice, when this application came before him in the first instance, when he ordered that a date be fixed for the hearing of these proceedings had directed the Law Society to file an affidavit exhibiting the report of the inquiry committee and the grounds of the Council of the Law Society for assuming jurisdiction. An affidavit has been filed by the executive secretary of the Law Society, but there are no grounds of the Council of the Society of any kind either for assuming jurisdiction or confirming the findings of the inquiry committee and imposing the penalty of $1,000. Mr Karthigesu has said from the bar that he had spoken to the President of the Law Society and he has been told that the Council merely accepted the findings of the inquiry committee of which I had been furnished a copy.

So as I was saying on the first ground, on the merits, the second of the points made by Mr. Lawrence Ang in his affidavit, there is no contest. Having heard the learned Attorney-General address me fully on the merits, it is clear beyond doubt that there is no evidence whatsoever to support the findings of the inquiry committee. The submission of Mr. Lawrence Ang before the District Judge on all the available facts that he had at the time were most proper. There was nothing unwarranted, baseless or dishonourable as complained of by Mr. Dube in his complaint to the Law Society. It is I think a matter for regret that this matter had to go so far as to reach this Court for that decision to be made.

Next, on the question of jurisdiction, Mr. Karthigesu has I think very properly put forward a legal argument to say that in theory there could be jurisdiction assumed by the Council in relation to proceedings under Part VII of the Legal Profession Act in respect of an advocate and solicitor who is not in possession of a practising certificate. In other words, any advocate

and solicitor who has been duly admitted and is on the rolls could be disciplined or proceedings could be brought against him in the first instance either by or before the Law Society and through the Law Society the inquiry committee.

However, for the purposes of this case, Mr. Karthigesu for the Law Society has properly conceded, having regard to s. 28(2), the declaratory provision in the Legal Profession Act, that Mr. Ang specifically has a right of audience in the Courts and when he is acting in his capacity as Deputy Public Prosecutor cannot come within s. 80, the present s. 82(1), in respect of his conduct in his professional capacity.

It is clear to me that the complaint of Mr. Dube, call it complaint, call it by any other word, relates to the conduct of Mr. Ang in his capacity as Deputy Public Prosecutor, in his professional capacity, that it is alleged by Mr. Dube that it is in that capacity he had used certain words which Mr. Dube had considered unwarranted, baseless and dishonourable. Clearly that would not come within the jurisdiction of the Law Society or of the Council or the inquiry committee to look into.

So on the first ground on which complaint is taken in this case I agree altogether with the submissions made by the Attorney-General, that the Law Society and the Council and the inquiry committee had wrongly assumed jurisdiction. In my opinion they did not have the power to do so.

So I will make an order under s. 92(3) setting aside the order of the penalty imposed on Mr. Lawrence Ang.

The learned Attorney-General has also asked for costs of these proceedings and the costs of his appearance for Mr. Lawrence Ang before the Council.

I think costs must follow the event. These proceedings should not have been necessary. The Law Society will pay the costs of these proceedings, including the costs of the Attorney-General before the Council when Mr. Lawrence Ang was called upon to appear before the Council.

I hereby certify the above grounds of judgment.

Also found at [1991] 1 CLJ 846